

STATE OF MICHIGAN



GRETCHEN WHITMER, Governor

MICHIGAN CIVIL RIGHTS COMMISSION

RESOLUTION

RESOLUTION ON THE DYNAMIC CHARACTER CHANGE

WHEREAS the Michigan Civil Rights Commission recognizes the inherent power of representative symbols and therefore voted to pass a 2016 resolution to help shift the cultural consciousness by moving to a more active and engaged depiction on accessible parking signs; and

WHEREAS in 2022, the Michigan Legislature enacted PA 182 and 183 of 2022 (House Bills 4075 and 4076, respectively) to change the International Symbol of Accessibility to a dynamic character leaning forward in a wheelchair, and required the Michigan Civil Rights Commission to adopt and post a corresponding standardized design on the website of the Michigan Department of Civil Rights; and

WHEREAS staff from the Michigan Department of Civil Rights coordinated with various impacted state agencies to collaboratively work for the past year to research, clarify, interpret, and understand the application of federal law and administrative rules surrounding the International Symbol of Accessibility; and

WHEREAS it has become clear that the dynamic character symbol has not been approved for use by federal authorities and implementing such a change is not within the power of the Michigan Civil Rights Commission; and

WHEREAS the Americans with Disabilities Act Accessibility Standards, issued by the US Department of Justice and the US Department of Transportation, specifically requires use of the

International Symbol of Accessibility in places of public accommodation, commercial facilities, and state and local government facilities in new construction, alterations, and additions; and

WHEREAS the Americans with Disabilities Act Accessibility Standards specifically prescribe that only the International Symbol of Accessibility can be used unless the new symbol satisfies the “equivalent facilitation” provision under Section 103. This provision allows alternatives to requirements if they result in “substantially equivalent or greater accessibility and usability.” The burden of proof in demonstrating “equivalent facilitation” rests with the covered entity in the event of a legal challenge; and

WHEREAS testing utilizing significant human factors is needed to demonstrate that the new symbol offers “substantially equivalent or greater accessibility and usability” when compared to the current version, and authorizing such a study or certifying the results are both beyond the expertise and authority of the Michigan Civil Rights Commission; and

WHEREAS in 2015 the Federal Highway Administration issued an interpretation memorandum concluding that symbols used in traffic control device applications must be “unmistakably similar” to the International Symbol of Accessibility, and further concluded that the alternative symbols do not meet this requirement; and

WHEREAS legislative attempts to change to a dynamic character in other US states, such as Connecticut, Ohio and New York have revealed that the US Department of Justice and US Department of Transportation still consider the International Symbol of Accessibility as the only acceptable, legal standard, and that use of any alternatives may potentially impact federal funding, cause confusion to the public, and result in greater costs to public accommodation and public service entities, as well as other considerations; and

THEREFORE, BE IT RESOLVED that the Michigan Civil Rights Commission has determined that it has no legal authority to approve, adopt and implement the dynamic character symbol as such action would violate federal law and regulations and could result in the loss of more than three billion dollars in federal funds; and

BE IT FURTHER RESOLVED that the Michigan Civil Rights Commission agrees the federal Manual on Uniform Traffic Control Devices for Streets and Highways requires that any alternative symbol must first undergo extensive human factors testing to eliminate the potential for unintended consequences; and

BE IT FURTHER RESOLVED that we authorize and direct the Michigan Department of Civil Rights to support and assist any efforts to devise a legal dynamic character symbol that complies with the standards set forth by the US Department of Justice and US Department of Transportation.



Passed on Monday the 23rd day of October 2023, by the
MICHIGAN CIVIL RIGHTS COMMISSION

Commissioner Portia Roberson, Chair
Commissioner Gloria E. Lara, Secretary
Commissioner David Worthams
Commissioner Rosann Barker

Commissioner Zenna Faraj Elhasan, Vice Chair
Commissioner Richard Corriveau
Commissioner Luke Londo
Commissioner Regina Marie Gasco